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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,465	04/13/2000	Robert F. Bencini	15916-261	7431

7590

08/29/2003

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EXAMINER

SIRMONS, KEVIN C

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 08/29/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

NK

# Office Action Summary

Application No.

09/548,465

Applicant(s)

BENCINI ET AL.

Examiner

Kevin C. Sirmons

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 43-52 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6-10 and 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 11, 17, 19, 47, 48, 50 and 51 is/are rejected.
- 7) ☒ Claim(s) 2, 18, 20-26, 43-46, 49 and 52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-5, 11, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens U.S. Pat. No. 5,419,340.

Stevens discloses an elongate body defining a proximal portion and a distal portion and a wall defining an inner surface, and outer surface and a lumen extending from the proximal portion to an aperture in the distal portion (fig. 1); a steering wire (20) having a proximal portion that extends to the proximal portion of the elongate body and a distal portion that is operably connected to the distal portion of the elongate body (20); and a stiffening member associated with the distal portion of the elongate body (76) note stiffening member has no structure; and a handle, operably connected to the elongated body and to the steering wire, adapted pull the steering wire relative to the elongate body (12); as to claim 4, (fig. 1); as to claims 5 and 11, (76); as to claim 17, (figs. 1-3); as to claim 19, (fig. 1-3).

Claims 47-48 and 50-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Ebling et al U.S. Pat. No. 4, 934,340.

Ebling discloses and elongate body 10b; a steering wire (20b); a stiffening member (70); an anti-tear device (24b) note: applicant has no structure for stiffening member and anti-tear device; as to claim 48, (fig. 7); as to claims 50-51, (24b).

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***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 4-5, 11, 17-26 and 43-52 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

Claims 2, 18, 20-26, 43-46, 49 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703) 306-5410.

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The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

*KCS*

Kevin C. Sirmons  
Patent Examiner  
8/23/03

*Manuel Mendez*

MANUEL MENDEZ  
PRIMARY EXAMINER